

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

PATENT APPLICATION

ATTORNEY DOCKET NO. 10992150-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Tony M. Brewer et al.

Confirmation No.: 2277

Application No.: 09/521,827

Examiner: M. H. Pollack

Filing Date: March 9, 2000

Group Art Unit: 2145

PROTOCOL FOR INSURING EXACTLY ONCE
Title: SEMANTICS OF TRANSACTIONS ACROSS AN
UNORDERED, UNRELIABLE NETWORK

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on April 5, 2006.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail EV568242009US in an envelope addressed to: MS Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

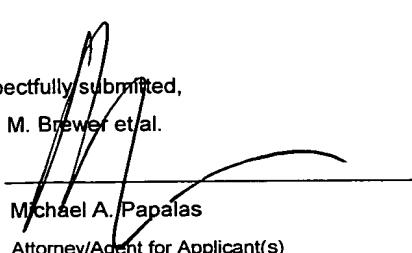
Date of Deposit: June 5, 2006

Typed Name: Lorraine Davidoff

Signature: Lorraine Davidoff

Respectfully submitted,
Tony M. Brewer et al.

By

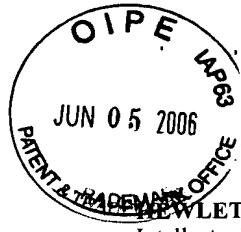

Michael A. Papalas

Attorney/Agent for Applicant(s)

Reg No. : 40,381

↪ Date : June 5, 2006

Telephone : (214) 855-8186



HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

Docket No.: 10992150-1
(PATENT)

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tony M. Brewer et al.

Application No.: 09/521,827

Confirmation No.: 2277

Filed: March 9, 2000

Art Unit: 2145

For: PROTOCOL FOR INSURING EXACTLY
ONCE SEMANTICS OF TRANSACTIONS
ACROSS AN UNORDERED, UNRELIABLE
NETWORK

Examiner: M. H. Pollack

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under 37 C.F.R. § 41.41(a)(1), this Reply Brief is filed within two months of the Examiner's Answer dated April 5, 2006 (hereinafter the "Examiner's Answer"), and is in furtherance of the Appeal Brief filed on November 30, 2005.

No fee is required for this REPLY BRIEF.

This brief contains items under the following headings pursuant to M.P.E.P. § 1208:

- I. Status of Claims
- II. Grounds of Rejection to be Reviewed on Appeal
- III. Argument
- IV. Conclusion

I. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 24 claims pending in application

B. Current Status of Claims:

1. Claims canceled: None
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1-24
4. Claims allowed: None
5. Claims objected to: 1-24
6. Claims rejected: 1-24

C. Claims on Appeal: 1-24

The claims on appeal are claims 1-24

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 1, 2, 4, 14-16, and 20-24 properly stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,838,920 to Rosborough (hereinafter "Rosborough").

B. Whether claims 3 and 7-9 properly stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosborough in view of U.S. Patent No. 6,385,642 to Chlan et al (hereinafter "Chlan").

C. Whether claims 5, 6, and 19 properly stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosborough in view of U.S. Patent No. 5,774,479 to Lee et al (hereinafter "Lee").

D. Whether claims 10-12 properly stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosborough in view of U.S. Patent No. 6,385,642 to Jalili et al (hereinafter “Jalili”).

E. Whether claims 13, 17, and 18 properly stand rejected under 35 U.S.C. 103(a) as being unpatentable over Rosborough in view of U.S. Patent No. 6,385,642 to Forman et al (hereinafter “Forman”).

III. ARGUMENT

A. Rejection Under 35 U.S.C. 102(b)

Claims 1, 2, 4, 14-16, and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosborough.

It is well settled that to anticipate a claim, the reference must teach every element of the claim. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he elements must be arranged as required by the claim.” *See In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” *See Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989).

Claim 1 recites “generating a data entry related to the progress of said data operative transaction in a destination database.” In the Examiner’s Answer, the Examiner points to Rosborough, at Figs. 1, 2, 6A and col. 6, lines 30-60, to teach generating a data entry...as recited in claim 1. *See* Examiner’s Answer, pg. 3. Also, the Examiner opines that the destination site [of claim 1] is satisfied by the server computer, recording device, and the monitoring computer [of Rosborough]. *See* Examiner’s Answer, pg. 9. As Appellant best understands, the Examiner equates Rosborough’s recording device 20 (Fig. 1) as a destination database. However, even if the Examiner is correct in equating Rosborough’s recording device to a destination database, which Appellant does not concede as accurate, the recording device does not generate data packets. This is confirmed by referring to the Examiner’s own citation, which reads “all of the service packets on the communications line will be read by recording device 20....” *See* Rosborough col. 5, lines 26-29. Appellant respectfully points

out that merely reading service packets is not the same as generating a data entry. Moreover, Rosborough, at col. 6 lines 54-60, merely discloses making a record, or not, of a service packet (e.g., recording the time the service packet is read). Appellant respectfully points out that merely recording the time a service packet is read is not the same as generating a data entry related to the progress of said data operative transaction in a destination database. Notably, according to Rosborough, the data packets are generated by the client computer or the server computer (e.g., not in a destination database). *See* Rosborough at col. 6, lines 5-15. Thus, Rosborough does not generate a data entry...in a destination database as recited in claim 1. Therefore, Appellant respectfully requests the 35 U.S.C. 102 rejection of record be reversed.

Claim 2 recites “executing said data operative transaction at said destination site, thereby producing transaction results.” In the Examiner’s Answer, the Examiner points to Rosborough, at Fig. 4 and col. 5 lines 47-63, to satisfy this limitation. *See* Examiner’s Answer, pg. 10. However, at the Examiner’s citation Rosborough merely depicts a stream of “service results packets” or “service requests.” Moreover, further inspection of the Examiner’s cited reference confirms that Rosborough does not teach executing said data operative transaction at said destination site as recited in claim 2. Rather, Rosborough merely describes a recording device 20 (which the Examiner equates to a destination database) that “selects service packets and provides the time at which the service packet was received.” *See*, for example, Rosborough at col. 5, lines 1-5. Thus, Rosborough does not teach every limitation of Appellant’s claimed invention. Therefore, Appellant respectfully requests the 35 U.S.C. 102 rejection of record be reversed.

Claim 14 recites a reservation database at said destination site for storing information uniquely identifying said data operative transaction and for storing information tracking the progress of said data operative transaction. In the Examiner’s Answer, the Examiner does not point to where this limitation is disclosed in a cited reference. Nevertheless, Appellant endeavors to address the Examiner’s apparent rejection. In the Office Action mailed on October 31, 2005 (hereinafter the “Final Action”), the Examiner attempts to satisfy this limitation in stating “the recording device is placed between a client computer and a server computer (col. 4, line 65- col. 5, line 1) and therefore is part of the system.” *See* Final Action, paragraph 3.

As an initial matter, Appellant notes that in his rejection of claim 1, the Examiner points to recording device 20 as part of a destination site. *See* Examiner's Answer, pg. 3. However, as Appellant best understands, it is unclear whether the Examiner wishes to use recording device 20 as a "destination site" or a "reservation database." *See id.* In any event, Appellant submits that the Examiner's own citation demonstrates the Rosborough fails to teach this limitation. At the Examiner's citation, Rosborough merely recites "recording device 20 is connected to a busline between a client computer and a server computer." *See* Rosborough, col. 4, line 65- col. 5, line 1. The Examiner opines that a site encompasses a number of devices, separated either logically or physically. *See* Examiner's Answer, pg. 9. According to the Examiner's logic, a reservation database "between" two other components could be placed virtually anywhere along a communication line between those components, subject to virtually any physical arrangement, separated by any number of devices, and would still be considered "at" a destination site. Put simply, "between a client computer and a server computer" is not the same as "...at a destination site..." as recited by claim 14. Therefore, Appellant respectfully requests the 35 U.S.C. 102 rejection of record be reversed.

Claim 20 recites "means for establishing a plurality of data entries...in a destination database located at said destination site." As Appellant best understands, the Examiner does not specifically point out this limitation as being met by any cited reference. *See*, for example, Examiner's Answer, pg. 11. Nevertheless, according to the Examiner's logic in rejecting previous claims, the Examiner's Answer equates Rosborough's session between a requester node and a service provider with the "data operative transaction," individual packets of that session with "data entries," and a recording device 20 (from Figure 1) as a destination database. However, without conceding that these features of Rosborough can be equated with features of claim 20, Appellant respectfully points out that storage device 20 is not at server computer 32. Instead, storage device 20 is designed and intended by Rosborough to be on communication line 24 between the points of access of the client or server computers. *See* Rosborough col. 4, line 65- col. 5, line 1. Thus, storage device 20 is not at destination database located at said destination site, and Rosborough does not teach each and every limitation of claim 20. Therefore, Appellant respectfully requests the 35 U.S.C. 102 rejection of record be reversed.

Claim 24 recites establishing a plurality of data entries related to the progress of said memory device control transaction in a destination database. As Appellant best understands, the Examiner does not specifically point out this limitation as being met by any cited reference. *See*, for example, Examiner's Answer, pg. 11. Nevertheless, according to the Examiner's logic in rejecting previous claims, the Examiner points to Rosborough, at Figs. 1, 2, 6A and col. 6, lines 30-60, to teach this limitation. *See* Final Action, paragraph 9. Further, the Examiner opines that "the recording device [of Rosborough] receives all of the packets (col. 5, lines 20-30; col. 6, lines 50-60), and therefore may be considered a destination device." *See id.* at paragraph 3. As such, the Examiner equates Rosborough's recording device 20 (Fig. 1) as a destination database. However, even if the Examiner is correct in equating Rosborough's recording device to a destination device, which Appellant does not concede as accurate, the recording device does not establish a plurality of data entries. This is confirmed by referring to the Examiner's cited reference, which reads "all of the service packets on the communications line will be read by recording device 20..." *See* Rosborough col. 5, lines 26-29. Appellant points out that reading service packets is not the same as establishing a plurality of data entries. According to Rosborough, the data packets are established by the client computer or the server computer. *See* Rosborough col. 6, lines 5-15. Thus, Rosborough does not establish a plurality of data entries...in a destination database as recited in claim 24. Therefore, Appellant respectfully requests the 35 U.S.C. 102 rejection of record be reversed.

Claims 4, 15, 16, and 21-24 depend from one of claims 1, 14, and 20. Thus each of claims 4, 15, 16, and 21-24 inherit limitations from its respective base claim not taught by Rosborough. Although each of claims 4, 15, 16, and 21-24 recite limitations that make it patentable in its own right, each of claims 4, 15, 16, and 21-24 is at least patentable for depending from a patentable base claim. Therefore, Appellant respectfully requests the 35 U.S.C. 102 rejection of record be reversed.

B. Rejections Under 35 U.S.C. 103(a)

The Examiner's Answer rejects claims 3, 5-13, and 17-19 as obvious in light of combined references. However, Appellant respectfully asserts that none of the combinations proposed is capable of establishing a *prima facie* case for the claims rejected. Appellant

respectfully notes that three criteria must be satisfied to establish a *prima facie* case of obviousness. First, some motivation must be found for combining the references proposed, either in the references themselves or in the knowledge available to one of ordinary skill in the art at the time of the invention. Second, the combination must have inspired a reasonable likelihood of success. Third, the proposed combination must teach or suggest each and every limitation of the rejected claims. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed. Cir. 1991). Without conceding the first or the second criteria, Appellants respectfully assert that the proposed references can not establish the third criteria.

Claims 3 and 7-9 have been rejected over a combination of Rosborough and Chlan. Each of claims 3 and 7-9 depend from claim 1, and thus inherit all of that claim's limitations. As demonstrated above, Rosborough fails to teach or suggest generating a data entry related to the progress of said data operative transaction in a destination database as recited by claim 1. Though not relied on to do so, Appellant respectfully asserts that Chlan does not teach or suggest this limitation either. Therefore, the combination of Rosborough and Chlan does not establish a *prima facie* case for rejecting claims 3 and 7-9, and Appellant respectfully requests the reversal of these rejections.

Claims 5, 6 and 19 have been rejected as obvious in light of Rosborough and Lee. However, claims 5 and 6 depend from claim 1 and claim 19 depends from claim 14. As demonstrated above, Rosborough does teach or suggest generating a data entry related to the progress of said data operative transaction in a destination database as recited by claim 1. Also, Rosborough does not teach or suggest a reservation database at said destination site for storing information uniquely identifying said data operative transaction and for storing information tracking the progress of said data operative transaction as recited by claim 14. Although not relied on to do so, Appellant respectfully asserts that Lee does not teach or suggest these missing limitations either. Therefore, the combination of Rosborough and Lee can not establish a *prima facie* case for rejecting claims 5, 6, and 19, and Appellant respectfully requests the reversal of the rejections of claim 5, 6, and 19.

Claims 10-12 are rejected as obvious over Rosborough and Jalili. However, claims 10-12 depend from claim 1, and thus inherit all of that claim's limitations. As demonstrated above, Rosborough fails to teach or suggest generating a data entry related to the progress of

said data operative transaction in a destination database as recited by claim 1. Though not relied on to do so, Appellant respectfully asserts that Lee does not teach or suggest this missing limitation either. Therefore, the combination of Rosborough and Lee does not establish a *prima facie* case for rejecting claims 10-12, and Appellant respectfully requests the reversal of the rejections of claim 10-12.

Claims 13, 17, and 18 are rejected as obvious over Rosborough and Forman. However claim 13 depend from claim 1, and claims 17 and 18 depend from claim 14. As demonstrated above, Rosborough does teach or suggest generating a data entry related to the progress of said data operative transaction in a destination database as recited by claim 1. Also, Rosborough does not teach or suggest a reservation database at said destination site for storing information uniquely identifying said data operative transaction and for storing information tracking the progress of said data operative transaction as recited by claim 14. Although not relied on to do so, Appellant respectfully assert that Foreman does not teach or suggest these missing limitations either. Therefore, the combination of Rosborough and Foreman can not establish a *prima facie* case for rejecting claims 13, 17, and 18, and Appellant respectfully requests the reversal of the rejections of claims 13, 17, and 18.

IV. CONCLUSION

In view of the remarks above, Appellant respectfully submit that the pending claims are in condition for allowance. As such, Appellant requests that the rejections of record be reversed.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail EV568242009US in an envelope addressed to: MS Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

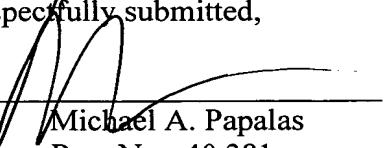
Date of Deposit: June 5, 2006

Typed Name: Lorraine Davidoff

Signature: 

Respectfully submitted,

By


Michael A. Papalas

Reg. No.: 40,381

Date: June 5, 2006

Telephone No. (214) 855-8186